

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

KAY JOHNSON, both individually and derivatively on behalf of NATIONAL HOLDINGS CORPORATION,

Plaintiff,

v.

NATIONAL SECURITIES CORPORATION,
NATIONAL ASSET MANAGEMENT, INC.,
NATIONAL HOLDINGS CORPORATION,
MICHAEL MULLEN, GLENN WORMAN,
BILLY GROENEVELD, DANIEL ORTEGA,
RENE KAGEFF, MICHAEL SINGER, DANIEL HUME,
JEFFREY GARY, ROBERT FAGENSON, ATHANASSIOS MICHAS A/K/A NASSOS MICHAS, BARBARA CREAGH, and JOHN DOES 1-10,

Defendants

and

NATIONAL HOLDINGS CORPORATION,

Nominal Defendant.

No. 19-cv-06197-LTS-OTW

**ORAL ARGUMENT
REQUESTED**

**NOTICE OF DEFENDANTS' MOTION TO DISMISS
AMENDED VERIFIED COMPLAINT**

PLEASE TAKE NOTICE that, upon the accompanying Memorandum of Law in Support of Defendants' Motion to Dismiss Amended Verified Complaint, the Declaration of Michael G. Bongiorno in Support of Defendants' Motion To Dismiss Amended Verified Complaint, the Amended Verified Complaint [Dkt. No. 73] (the "Amended Complaint"), the pleadings and papers on file in this action, and any further submissions as may be presented prior to, and at, any hearing on this Motion, Defendants, by their undersigned counsel, hereby move before the Honorable Laura Taylor Swain, United States District Judge for the Southern District of New

York, in the United States District Court for the Southern District of New York, for an order dismissing under Federal Rule of Civil Procedure 12(b)(6) Counts I-VI and VIII of the Amended Complaint in their entirety and granting such other and further relief as the Court deems just and proper.

The Defendants certify that, in accordance with the Court's Individual Practices, they have used their best efforts to resolve informally the matters raised in the Motion. On March 3, Defendants informed Plaintiff of their plan to move to dismiss the Amended Complaint and on March 6, 2020, sent a letter to Plaintiff to outline their legal and factual positions on the matters in controversy. Plaintiff responded by letter on March 13, 2020, and the parties had a telephonic discussion of the matters on March 17, 2020. Pursuant to that telephonic discussion, Plaintiff's counsel advised Defendants' counsel that Ms. Johnson no longer plans to pursue her claim for wrongful termination under New York law. However, the Amended Complaint has not been amended in response to the arguments raised in the Motion.

Dated: March 18, 2020

Respectfully submitted,

/s/ Michael G. Bongiorno
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